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3 UNITED STATES DISTRICT COURT

4 DISTRICT OF NEVADA

5 * * *

6 CURTIS TRUMAN,

Case No. 3:22-cv-00548-MMD-CLB

7 Plaintiff,

ORDER

8 v.

9 THURISTON MOORE, *et al.*,

10 Defendants.

11 Pro se Plaintiff Curtis Truman, who is incarcerated in the custody of the Nevada
12 Department of Corrections ("NDOC"), sued NDOC employees and officials for excessive
13 force and violation of his due process rights under 42 U.S.C. § 1983. (ECF No. 5.) Before
14 the Court is the Report and Recommendation ("R&R") of United States Magistrate Judge
15 Carla Baldwin (ECF No. 72), recommending that the Court grant Defendants' motion for
16 summary judgment (ECF No. 60) in part, and deny it in part, along with striking Truman's
17 unauthorized surreply. To date, no objections to the R&R have been filed. Because there
18 is no objection, and as further explained below, the Court will adopt the R&R.

19 Because there is no objection, the Court need not conduct de novo review, and is
20 satisfied that Judge Baldwin did not clearly err. *See United States v. Reyna-Tapia*, 328
21 F.3d 1114, 1116 (9th Cir. 2003) ("De novo review of the magistrate judges' findings and
22 recommendations is required if, but *only* if, one or both parties file objections to the
23 findings and recommendations." (emphasis in original)). After summarizing the evidence
24 before her, Judge Baldwin first recommends the Court deny Defendants' motion for
25 summary judgment as to Truman's excessive force claim because the pertinent
26 allegations in his verified complaint create a genuine dispute of material fact. (ECF No.
27 72 at 9.) However, Judge Baldwin recommends the Court grant summary judgment to
28 Defendants as to Truman's due process claim because the evidence before her shows

1 Truman received the process he was due. (*Id.* at 10-11.) Judge Baldwin finally
2 recommends striking Truman's unauthorized surreply because he did not first obtain
3 leave of Court. (*Id.* at 11.) Having reviewed the R&R, Judge Baldwin did not clearly err.

4 It is therefore ordered that Judge Baldwin's Report and Recommendation (ECF
5 No. 72) is accepted and adopted in full.

6 It is further ordered that Defendants' motion for summary judgment (ECF No. 60)
7 is granted in part and denied in part. It is more specifically granted as to Truman's
8 Fourteenth Amendment due process claim and denied as to Truman's Eighth Amendment
9 excessive force claim. Truman is accordingly proceeding on only his Eighth Amendment
10 excessive force claim.

11 It is further ordered that the Court strikes Truman's unauthorized surreply (ECF
12 No. 69).

13 It is further ordered that the Court finds it appropriate to refer this case for a
14 settlement conference under LR 16-5 before United States Magistrate Judge Carla
15 Baldwin.

16 It is further ordered that, if this case does not settle at the settlement conference,
17 the Joint Pretrial Order is due within 30 days of the settlement conference being held.

18 DATED THIS 28th Day of January 2025.

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22 MIRANDA M. DU
23 UNITED STATES DISTRICT JUDGE
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